

FEDERMAN & SHERWOOD
(AN ASSOCIATION OF ATTORNEYS AND PROFESSIONAL CORPORATIONS)

10205 N. PENNSYLVANIA AVENUE
OKLAHOMA CITY, OKLAHOMA 73120
405-235-1560
FACSIMILE: 405-239-2112

REPLY TO: OKLAHOMA CITY

2926 MAPLE AVENUE
SUITE 200
DALLAS, TEXAS 75201
214-696-1100
FACSIMILE: 214-740-0112

January 8, 2016

VIA ECF FILING

Honorable Charles R. Breyer
United States District Court for the Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *In re Volkswagen "Clean Diesel" Marketing, Sales Practices & Products
Liability Litigation*, MDL No. 2672 CRB (JSC)

Dear Judge Breyer:

Pursuant to Pretrial Order No. 2 [Dkt. No. 336], William B. Federman of FEDERMAN & SHERWOOD, counsel for Plaintiffs Steven Ivanoski, Amie Parsons, William Moyer, R. Patrick Bixler, Audrey Barrett, Haydn Schwedland, and Christopher Baldwin, respectfully submits this application for appointment to the Plaintiffs' Steering Committee for Vehicle Owners in MDL 2672 CRB (JSC). Based upon knowledge and experience in litigating consumer and complex MDL cases, I strongly believe this case will benefit from a management strategy of coordination rather than consolidation.

I have extensive experience in leadership positions in complex consumer MDL and class action cases. I have been appointed lead counsel or co-lead counsel in over 60 class actions, including products liability, consumer protection, environmental regulation, securities and shareholder derivative actions, achieving significant relief for class members through settlement and trial (please see firm resume attached as Exhibit A). In doing so, I have successfully worked with a multitude of law firms from all over the country, many of which are also involved in this case. I have been lead, co-lead and liaison counsel in several MDL proceedings that have been concluded, including *In re: General Motors Corporation "Piston Slap" Products Liability Litigation*, Case No. MDL 04-1600, W.D. Okla., Hon. Judge Joe Heaton, 405-609-5601, and *In re: Farmer's Insurance Company, Inc.* MDL No. 1564, W.D. Okla., Hon. Judge Stephen P. Friot, 405-609-5501. I am also currently a member of the Plaintiffs' Steering Committee in *In re: The Home Depot, Inc., Customer Breach Security Litigation*, an MDL proceeding in the Northern District of Georgia, [MDL Dkt. No. 2583, Hon. Judge Thomas W. Thrash 404-215-1550, and co-lead counsel on the Plaintiffs' Discovery and Legal Research Committees in *In re: Pacquiao-Mayweather Boxing Match Pay-Per-View Litigation*, [MDL Case No. 2639 (C.D. Cal.), Hon. Judge R. Gary Klausner, 213-894-2649]. Additionally, I was also recently co-lead counsel in a consumer protection class action that resulted in an initial settlement encompassing over 100,000 claimants. *Mirakay v. Dakota Growers Pasta Co., Inc.*, 13-CV-4429 JAP, 2014 WL 5358987 (D.N.J. Oct. 20, 2014), Joel A. Pisano, mediator Connell Foley LLP, 973-757-1100.

Federman & Sherwood also has considerable experience litigating complex cases involving environmental regulation violations, specifically EPA, RCRA, California DTSC and California AQMD violations. I am Plaintiffs' lead counsel in *Loritz v. Exide Technologies, et al*, 2014 WL 4058752 (C.D. Cal. Aug. 7, 2014) Hon. Judge Stephen V. Wilson, 213-894-2881, a case involving violations of the Federal securities laws implicating state and Federal environment regulations (EPA, California DTSC and California AQMD regulations). I am also currently working with the Sierra Club in investigating potential EPA and RCRA violation claims by multiple oil and gas wastewater disposal well operators within the state of Oklahoma while also representing consumers for related damages.

Federman & Sherwood has unique and valuable experience in litigating complex cases involving foreign corporations. We have represented plaintiffs in an MDL action against Hoffman-LaRoche, Inc. and LaRoche Laboratories, makers of the acne drug Accutane, whose headquarters are located in Basel, Switzerland. *In re Accutane Products Liab.*, 511 F. Supp. 2d 1288 (M.D. Fla. 2007), Hon. Judge James S. Moody, Jr., 813-301-5680. As a member of the Plaintiffs' Steering Committee, we were responsible for resolving multiple issues involving litigation with a foreign corporation, including handling large document productions and witness interviews in German. Furthermore, in *Hames v. Bayer AG*, 2004 WL 5363840 (W.D. Okla. June 8, 2004, Hon. Judge Vicki Miles-Lagrange, 405-609-5401), we represented multiple plaintiffs in personal injury/products liability cases where the primary defendant was Bayer AG, a German multinational chemical and pharmaceutical company. Again, we worked on multiple document productions and witness interviews in German.

I have filed complaints against Volkswagen Group of America, Inc. and Volkswagen AG in the Northern and Western Districts of Texas, the Western District of Oklahoma, the Central and Northern Districts of California and the District of Arizona. Importantly, Federman & Sherwood has an office located in Dallas, Texas and attorneys who are members of the Texas Bar. I have served Volkswagen a Texas Deceptive Trade Practices Act letter, which provides Texas residents with statutory relief that is distinct and unique to that state. Volkswagen has responded to the DTPA demand and the issue is now ripe to be included for coordinated litigation. The Texas Attorney General has stated that over 32,000 Texas residents purchased the affected vehicles (<https://www.texasattorneygeneral.gov/news/releases/texas-sues-volkswagen-and-audi-over-deceptive-trade-practices-environmental>) so the inclusion of Texas counsel to address claims unique to Texas plaintiffs is an important consideration.

I have practiced law for over 33 years and have extensive experience litigating and trying complex cases and class actions. Prior to founding FEDERMAN & SHERWOOD, I was a co-founder and managing director of DAY, EDWARDS, FEDERMAN, PROPESTER & CHRISTENSEN, PC, an Oklahoma City law firm that merged three law firms to create a 28-lawyer firm that focused on serving the financial community and insurance companies. It received a top rating by A.M. Best. I received the *Martindale-Hubbell* peer review rating of AV Preeminent for both ethical standards and legal ability and served on the Oklahoma County Bar Ethics Committee. I have been honored as a featured speaker at many bar events, including the American Bar Association, the Houston Bar Association, and the Oklahoma Bar Association.

As stated above, Federman & Sherwood recently reached a settlement in a significant case that, had it proceeded, would have taken three to five weeks for trial. These resources can now be immediately applied to the case at hand. Additionally, Federman & Sherwood routinely advances the costs of litigation and has demonstrated an ability and willingness to dedicate substantial resources to vigorously prosecute claims of proposed class members.

In nearly every complex case in which I have been involved, I have worked successfully with other plaintiff law firms. Because of the size and nature of this case, multiple plaintiffs' firms will likely be involved. I will work zealously yet cooperatively with defense counsel to efficiently and effectively prosecute this case. Please find attached as Exhibit B a list of counsel who support my appointment to the anticipated Plaintiffs' Vehicle Owner Steering Committee.

For the reasons set forth herein, I request an order of the court appointing William B. Federman to the Plaintiffs' Vehicle Owner Steering Committee.

Respectfully submitted,

William B. Federman